REMARKS / ARGUMENTS

Status of the Claims:

Claims 41-54 and 59 are currently pending. New claim 59 has been added.

Rejections Under 35 U.S.C. §102

Independent claim 41 has been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,481,133 to Knopse ("Knopse") This rejection is respectfully traversed.

Knopse

The rejection of claim 41 as anticipated by Knopse is respectfully traversed on the grounds that Knopse fails to disclose every element of claim 41.

The Examiner has asserted that:

> **Knopse meets the claimed limitation of "simultaneously spinning from separate spinneret packs" because Knopse teaches (col.4, lines 40-44) that while the different filaments (making up the mixed yarn) may be combined by extrusion from the same spinneret, it is generally more convenient to combine the separately prepared filaments at a later sage. This means that the different filaments are prepared separately (e.g., using different spinnerets) and they may also be prepared at the same time (i.e., simultaneously), or they may also be prepared at different times.**

A finding of anticipation under Section 102 requires that "each and every element as set forth in the claim is found either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) citing *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628,631 (Fed. Cir. 1987). Furthermore, the standard of inherency is very clear. "Inherency... may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." *In re Oelrich*, 666 F.2d 578, 581 (CCPA 1981). [citations omitted]. In other words, the element that is asserted to be inherent must necessarily and inevitably be present in the disclosure.

Knopse discloses a mixed shrinkage yarn which includes filaments having different shrinkage rates which may be of different polymers. The disclosure of Knopse provides two methods by which the mixed yarn may be prepared. The first is where the filaments are

combined by extrusion from the same spinneret, which is clearly outside the scope of the present invention. The second method is where two separately prepared bundles of filaments may be combined through an air interlacing jet. While this second method meets some elements of claim 41, Knopse does not disclose that the different filaments are prepared simultaneously, and does not disclose that the filament are prepared from separate spinning packs.

The Examiner has attempted to impose the limitations of present claim 41 on the disclosure of Knopse by stating that the filaments are prepared separately means by the use of different spinnerets. However, there is no support in Knopse for this premise. While Knopse implies that filaments of different shrinkage rates are prepared separately, Knopse does not specify whether this means separately as in by the use of different spinnerets or whether separately means at a different time, which would permit the same spinneret to be used. The Examiner also mentions not only the possibility that the filaments are prepared at the same time, but also that they may be prepared at different times. Applicants respectfully submit that these "possibilities" are not sufficient to establish that the limitations of claim 41 are inherent in Knopse. As such, Knopse fails as a reference under Section 102.

For the reasons that Knopse does not disclose, teach or suggest simultaneous spinning of a first and second group of filaments and that Knopse fails to teach that the filaments are spun from separate spinning packs, Knopse fails to anticipate claim 41. Accordingly, reconsideration and withdrawal of this rejection of claim 41 are appropriate and respectfully requested.

With respect to new claim 59, Applicants submit that the element wherein the first and second group of filaments are a cationic-dye polyamide and an anionic-dye polyamide is also not disclosed, taught, or suggested by Knopse. As such, Applicants respectfully submit that claim 59 is also novel in view of Knopse.

Rejections Under 35 U.S.C. §103

Claims 42-54 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Knopse. These rejections are respectfully traversed.

As set forth above, in the discussion of rejection of claim 41 under Section 102, Knopse fails to set forth every element of the present claims. In order to establish a *prima facie* case of obviousness, the reference must disclose, teach, or suggest every element of the claims. Therefore, with respect to Section 103, each reference fails to establish a *prima facie* case of obviousness. Accordingly, reconsideration and withdrawal of the rejections under Section 103 are appropriate and respectfully requested

CONCLUSION

For the reasons stated above, claims 41-54 are believed to be in condition for allowance. Accordingly, Applicant respectfully requests that the Application be allowed. If prosecution may be further advanced, the Examiner is invited to telephone the undersigned to discuss this application

The Examiner is authorized to credit or debit any fees due regarding this application to Applicant's Deposit Account No. 50-3223 (INVISTA).

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Respectfully submitted,

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